IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MRS. JUSTICE K.HEMA

MONDAY, THE 26TH MARCH 2007 / 5TH CHAITHRA 1929

Crl.Rev.Pet.No. 521 of 1999()

CRMP.856/1999 of I ADDL.SESSIONS COURT, ERNAKULAM
CC.181/1996 of ADDL.CHIEF JUDICIAL MAGISTRATE, ERNAKULAM

.....

REVN. PETITIONER/APPELLANT/ACCUSED:

C.P.SAJEEVAN S/O.PARAMESWARAN, CHETTY PARAMBIL HOUSE, VENNALA P.O., ERNAKULAM.

BY ADV. SRI.V.K.MOHAMMED YOUSUF

RESPONDENT(S):

---

1. M/S. INTERSTATE COMMERCIAL SYNDICATE, VYTTILA, KOCHI-19, REPRESENTED BY ITS PROPRIETOR, CHERIAN K.KOLLINAL, KOLLINAL HOUSE, MANEED, ERNAKULAM DISTRICT.

2. STATE OF KERALA, REPRESENTED BY STATE PROSECUTOR, HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI. SURESH KUMAR

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 26/ 03 / 2007 , THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K. HEMA, J.

Crl.R.P. No.521 of 1999

Dated this the 26th day of March, 2007.

ORDER

This revision petition arises from an order dismissing the criminal appeal consequent to the disposal of a petition filed for condonation of delay before the Sessions Judge, Ernakulam. The Addl. Sessions Judge, who considered the petition for con donation of delay in filing the appeal against the conviction and sentence passed against the revision petitioner for offence under section 138 of the Negotiable Instruments Act, passed the following order:

> "Heard. The delay for filing appeal is 269 days. I am not convinced in reason stated in condoning the delay. Hence, the Crl.M.P. Is dismissed."

2. A reading of the order itself shows that the order is illegal, since it is a non-speaking order. The application filed for condonation of delay is not expected to be disposed of without showing any reasons. The court, if dismisses the petition, shall state the reason why the petition is being dismissed. Nothing is

stated in the order except a bare statement that the court is convinced of the reason stated for condoning delay. When an order is passed such order is to be supported by reasons.

3. It is seen from the revision memo that the respondent-complainant did not raise any objection to the petition filed by the revision petitioner, since the reasons stated therein were true. Even that fact is not seen recorded in the order under challenge. The complainant and accused were absent at the time when this revision was taken up. There was no representation for either side. On going through the order under challenge, I find that the order, being a non-speaking one, deserves interference.

In the result, the order passed in the appeal and also the petition filed for condonation delay are set aside. The case is remanded to the lower appellate court for fresh consideration and disposal in accordance with law, after giving an opportunity of hearing to both sides, in accordance with law within one month from the date of receipt of a copy of this order. The parties shall appear before appellate court on receipt of notice to their counsel from the said court.

This petition is allowed.

Sd/-

K. HEMA, JUDGE.

Krs.

K. HEMA, J.

Crl.R.P.521/1999.

26.3.2007